

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CASE NO. 4:08cr152
	§	
DRAYLON LATRELLE MCGRUDER	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on June 11, 2009 to determine whether the Defendant violated his supervised release. The Defendant was represented by Denise Benson. The Government was represented by Kevin Collins.

On April 13, 2007, the Defendant was sentenced by the Honorable Marcia A. Crone, United States District Judge, to 5 months imprisonment followed by a 2-year term of supervised release for the offense of perjury. Defendant began his term of supervised release on May 11, 2007.

On May 8 2009, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (Dkt. 2). The petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state or local crime; (2) Defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by law enforcement officer; (3) Defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month; (4) Defendant shall notify the probation officer at least ten days prior to any change in residence or employment; (5) Defendant shall participate in a program approved by the U.S. Probation Officer for treatment of

narcotic or drug or alcohol dependency which will include testing for the detection of substance use or abuse, Defendant shall abstain from the use of alcohol and/or all other intoxicants during and after completion of treatment, and Defendant shall contribute to the cost of services rendered of at least \$20 per month; and (6) Defendant shall pay a \$100 special assessment.

The petition alleges that Defendant committed the following violations: (1) on April 19, 2008, Defendant was arrested in Sherman, Grayson County, Texas by Sherman Police Department for Driving While License Invalid with Previous Conviction or Suspension, and the case was pending at the time the petition was filed; (2) on February 2, 2009, a criminal complaint was filed against Defendant in Grayson County, Texas, alleging on June 7, 2009, Defendant was charged with “Assault Causes Bodily Injury Family Violence”, and the case was pending at the time the petition was filed; (3) on February 25, 2009, a criminal complaint was filed against Defendant in Grayson County, Texas, alleging that on September 13, 2008, Defendant was charged with “Interference with Emergency Call and Assault Causes Bodily Injury Family Violence”, and the cases were pending at the time the petition was filed; (4) Defendant failed to notify the U.S. Probation Officer of the above criminal activity and contact with law enforcement; (5) on January 30, 2008, Defendant was instructed to report in person to the U.S. Probation Office in Sherman, Texas on February 12, 2008, and Defendant failed to report as instructed, and, on December 12, 2007, Defendant was instructed to report in person to the U.S. Probation Office in Sherman, Texas on January 23, 2008, and Defendant failed to report as instructed; (6) Defendant failed to submit written monthly report forms for the months of February, March, April, May, June, July, August, September, October, November and December 2008, and January, February, March, and April 2009; (7) on May 20, 2008, U.S.

Probation Officer Dominic Morrison conducted an unannounced home visit to Defendant's last known address of 4910 Highgrove, Apt. G, Sherman, Texas, 75092, an unidentified individual advised they recently moved into said apartment and that Defendant did not reside there, on July 14, 2008, a violation notification was mailed to Defendant's last known address, and the document was returned on July 18, 2008, stamped "Return to Sender Not Deliverable As Addressed Unable to Forward"; (8) Defendant failed to submit random drug tests at Keith Lang, LPC on January 4, 8, 15, 21, and 22, February 11, 14 and 22, March 18 and 20, April 3, 15, and 17, and May 8, 13, 20 and 29, 2008, and on February 26, 2008, Defendant submitted a urine specimen that tested positive for marijuana, but Defendant discarded the urine specimen prior to it being confirmed by Kroll Laboratory; and (9) Defendant has failed to satisfy his court ordered financial obligation of \$100, and a balance of \$100 remains.

At the hearing, the Government withdrew its allegations regarding the alleged criminal acts set forth in (1) through (3) above. At the hearing, Defendant entered a plea of true as to the remaining allegations.

Defendant waived his right to allocution before the district judge and his right to object to the report and recommendation of this Court. The Court finds Defendant violated the terms of his supervised release.

RECOMMENDATION

The Court recommends that the District Court revoke the Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984 and in light of the parties' agreement, the Court recommends that the Defendant be committed to the custody of the Bureau of Prisons to be

imprisoned for a term of seven (7) months, with no supervised release to follow. The Court further recommends that Defendant carry out his term of imprisonment at the Bureau of Prisons facility in Seagoville, if appropriate.

SIGNED this 15th day of June, 2009.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE